



राजपत्र, हिमाचल प्रदेश

(असाधारण)

हिमाचल प्रदेश, राज्यशासन द्वारा प्रकाशित

शिमला, वीरवार, 13 नवम्बर, 1975/22 कार्तिक, 1897

GOVERNMENT OF HIMACHAL PRADESH

LAW DEPARTMENT

NOTIFICATIONS

Simla-2, the 13th November, 1975

No. LLR-D(6)18/75.—The Himachal Pradesh Relief of Agricultural Indebtedness Ordinance, 1975 (Ordinance No. 7 of 1975) promulgated by the Governor, Himachal Pradesh, under clause (1) of Article 213 of the Constitution of India on the 12th November, 1975, is hereby published in the Rajpatra, Himachal Pradesh, for the information of general public.

M. C. PADAM,
Under Secretary (Judicial).

Ordinance No. 7 of 1975.

**THE HIMACHAL PRADESH RELIEF OF AGRICULTURAL
INDEBTEDNESS ORDINANCE, 1975**

AN ORDINANCE

to provide for relief from indebtedness to certain farmers, landless agricultural labourers and rural artisans in the State of Himachal Pradesh.

Promulgated by the Governor of Himachal Pradesh in the Twenty-sixth Year of the Republic of India.

WHEREAS the Legislative Assembly of Himachal Pradesh is not in Session and the Governor of Himachal Pradesh is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS the instructions of the President of India under the proviso to clause (1) of Article 213 of the Constitution of India have been obtained;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Himachal Pradesh is hereby pleased to make and promulgate the following Ordinance, namely:—

CHAPTER I

PRELIMINARY

Short title,
extent and
commence-
ment.

1. (1) This Ordinance may be called the Himachal Pradesh Relief of Agricultural Indebtedness Ordinance, 1975.

(2) It extends to the whole of the State of Himachal Pradesh.

(3) It shall come into force at once.

Definitions

2. (1) In this Ordinance, unless the context otherwise requires.—

(a) “agriculturist” means a person who cultivates land personally;

(b) “appointed day” means the day on which this Ordinance comes into force;

(c) “civil court” includes.—

(i) any court exercising jurisdiction under the Provincial Insolvency Act, 1920;

(ii) a Nayaya Panchayat established under the Himachal Pradesh Panchayati Raj Act, 1968;

(iii) a court exercising powers under the Provincial Small Cause Courts Act, 1887;

5 of 1920

19 of 1970

9 of 1887

- (d) "debt" with its grammatical variations and cognate expressions, means any liability in cash or kind, whether secured or unsecured, due from a debtor whether payable under a decree or order of any civil court or otherwise;
- (e) "debtor" means a marginal farmer, a landless agricultural labourer or a rural artisan who is in debt; but does not include a small farmer;
- (f) "to hold land", with its grammatical variations and cognate expressions, means to be lawfully in actual possession of land as owner, tenant or Government lessee and the expression "holding" shall be construed, accordingly;
- (g) "landless agricultural labourer" means a person who does not hold any land and whose principal means of livelihood is manual labour on agricultural land and includes a person who follows any one or more of the following agricultural occupations in the capacity of a labourer on hire or exchange, whether paid in cash, in kind or partly in cash and partly in kind:—
 - (a) farming including cultivation and tillage of soil etc;
 - (b) dairy farming;
 - (c) production, cultivation, growing and harvesting of horticultural commodity;
 - (d) raising of livestock, bees or poultry; and
 - (e) any practice performed on a farm as incidental to or in conjunction with farm operations (including any forestry or timbering operations) and preparation for market and delivery to storage or to market or to carriage for transportation of farm products;
- (h) "local authority" means a Municipal Corporation or Municipal Committee, a Notified Area Committee or a Cantonment Board, as the case may be, constituted or deemed to have been constituted under any law relating to local authority for the time being in force;
- (i) "marginal farmer" means an agriculturist who earns his livelihood mainly by agriculture and who holds land not exceeding one hectare of unirrigated or half hectare of irrigated land:

Provided that if a marginal farmer holds both classes of land then the area for the purpose of this clause shall be determined on the basis of half hectare of irrigated land counting as one hectare of unirrigated land and on the basis of this conversion ratio the total area of such farmer shall not exceed one hectare;

- (j) "member of a family" means father, mother, spouse, brother, unmarried dependant sister, divorced and dependant sister, son, son's wife, or unmarried daughter, divorced and dependant daughter, son's son, son's unmarried daughter, son's divorced

and dependant daughter and includes any relation residing with and actually dependant for his maintenance on the debt;

(k) "rural artisan" means a person who does not hold any agricultural land and whose principal means of livelihood is production or repair of traditional tools, implements and articles or things used for agriculture purposes or purposes ancillary thereto and also a person who normally earns his livelihood by practising a craft either by his own labour or by the help of the labour of the members of his family in the rural area and whose annual household income does not exceed two thousand and four hundred rupees;

(l) "rural area" means an area outside the jurisdiction of a local authority;

(m) "small farmer" means an agriculturist who earns his livelihood mainly by agriculture and who holds more than one hectare and less than two hectares of unirrigated or more than half hectare and less than one hectare of irrigated land;

Provided that if a small farmer holds both classes of land then the area for the purpose of this clause shall be determined on the basis of one hectare of irrigated land counting as two hectares of unirrigated land and on the basis of this conversion ratio the total area of such farmer shall not exceed two hectares;

(n) words and expressions used in this Ordinance but not defined therein shall have the meanings, respectively assigned to them in the Himachal Pradesh Ceiling on Land Holdings Act, 1972.

19 of 1975

(2) If a question arises whether a person is a marginal or small farmer, or a landless agricultural labourer or a rural artisan, the question shall be referred to an officer not below the rank of a Tehsildar duly appointed by the State Government in that behalf and the decision of such officer on the question shall be final and conclusive and shall not be called in question in any civil court:

Provided that no such question shall be decided unless an opportunity has been given to the interested parties to be heard.

CHAPTER II

LIQUIDATION OF CERTAIN DEBTS

3. Notwithstanding anything contained in any other law for the time being in force or in any contract, decree of any court or other instrument having force by virtue of any such law, and save as otherwise expressly provided in this Ordinance, every debt outstanding on the appointed day, including the amount of interest, if any, payable by a debtor to a creditor

Consequence of commencement of this ordinance.

shall be deemed to be wholly discharged, and the consequences as herein-after set forth shall, with effect from the appointed day, ensue, namely:—

- (a) no such debt due from a debtor on the appointed day shall be recoverable from him or from or against any movable or immovable property belonging to him, nor shall any such property be liable to be attached and sold or proceeded against in any manner in the execution of any decree or order relating to such debt against him;
- (b) no civil court shall entertain any suit or proceeding against such debtor for the recovery of any amount of such debt, including interest, if any:

Provided that, where a suit or proceeding is instituted jointly against such debtor or any other person, nothing in this clause shall apply to the maintainability of a suit or proceeding in so far as it relates to such other person;

- (c) all suits and proceedings (including appeals, revisions, attachment or execution proceedings) pending on the appointed day for the recovery of any such debt against such debtor shall abate:

Provided that nothing in this clause shall apply to the sale of—

- (i) any movable property held and concluded before the appointed day;
- (ii) any immovable property, confirmed before such day;
- (d) every debtor undergoing detention in a civil prison in execution of any decree for money passed against him by a civil court in respect of any such debt shall be released forthwith;
- (e) every property pledged or mortgaged by such debtor shall stand released in favour of such debtor, and the creditor shall be bound to return the same to the debtor forthwith. If the debtor is opposed or impeded in taking possession of the property, then he may request the District Magistrate, or any executive magistrate authorized by him to enforce delivery of possession of such property. The District Magistrate, or as the case may be, the executive magistrate shall take or cause to be taken such steps and use or cause to be used such force as may be reasonably necessary for securing the delivery of possession of the property to the debtor.

Explanation.—Nothing in this section shall be construed to entitle any such debtor to the refund of any part of a debt already repaid by him or recovered from him before the appointed day.

4. Any custom or tradition or any agreement (whether made before or after the appointed day), whereunder or by virtue of which a debtor or any member of his family is required to work as labourer or otherwise for the creditor shall be void and of no effect and shall not be enforceable in any court.

Agreement
for labour
in lieu of
debt to be-
come void.

CHAPTER III

MORATORIUM ON EXECUTION OF DECREES AGAINST SMALL FARMERS

Stay of proceedings in case of certain decrees.

5. (1) No debt or part thereof including any interest thereon due from a small farmer as on the appointed day shall be recoverable from him for a period of one year commencing from the appointed day:

(2) All proceedings in execution of any decree for money, or proceedings for making final, any preliminary decree for foreclosure or sale, or proceedings in execution of any final decree for sale, passed by a civil court on the basis of a liability incurred before the appointed day in which the judgement debtor or defendant, as the case may be, is, on the appointed day, a small farmer, shall be stayed against such judgement debtor or defendant, on an application made by him in this behalf for a period of one year from the appointed day.

(3) All attachments of growing crops, agricultural produce, livestock and other movable property of a perishable nature made in execution of decrees for money the execution of which has been stayed under sub-section (1) and existing on the date on which the stay order is passed shall be withdrawn.

(4) Every stay order passed by the Court under this section shall relate back to the date of the application for stay filed by the judgement debtor or defendant, as the case may be, and the proceedings shall for all purposes of this Ordinance be deemed to have been stayed with effect from such date.

Release of persons in detention in civil prison.

6. (1) On the appointed day, every small farmer undergoing detention in a civil prison in execution of any decree for money passed by a civil court in respect of his debt shall be released.

(2) No small farmer shall in any case be liable to arrest or detention in a civil prison in execution of any such decree as is referred to in sub-section (1) for a period of one year from the appointed day.

Relief against default in payment of instalments.

7. (1) where a decree for payment of the decretal amount by instalments contains a provision that in default of one or more instalments, the whole amount shall become due at once, then, notwithstanding anything in such provision, non-payment of any instalment falling due during the period in which the proceedings in execution remain stayed under this Ordinance, shall not be deemed to be a default for the purposes of such provision.

(2) If the judgement debtor pays the instalment so falling due within a period of twelve months after the expiry of period prescribed in sub-section (1) then such instalment shall be deemed to have been paid on the due date.

8. The State Government may by notification in the official gazette extend the period of one year referred to in sub-section (1) and (2) of section 5 and sub-section (2) of section 6 by a further period not exceeding one year.

Powers of State Government to extend the period of moratorium.

9. In computing the period of twelve years prescribed by the Limitation Act, 1963, the period during which proceedings are stayed under this Ordinance shall be excluded.

Computation of time for execution.

10. Nothing contained in this Chapter shall—

Payment of certain decrees.

(a) apply to a decree for money arising out of claims relating to trusts or for maintenance or for profits in favour of a co-tenant, or co-owner, or for mesne profits or for damages for tort, or for contribution between co-tenants of agricultural lands; or

(b) apply to a mortgage decree against property in the hands of a subsequent transferee who has taken the transfer in order to satisfy the mortgage subject to the mortgage on the basis of which such decree has been obtained; or

(c) apply to decisions, orders of any authority, made under the provisions of the Himachal Pradesh Co-operative Societies Act, 1968.

11. Every transfer of property made by a small farmer against whom proceedings in execution have been stayed under this Ordinance shall be voidable at the option of the creditor whose claim against such small farmer is defeated or delayed.

Transfer by small farmer to be voidable.

12. (1) On the expiry of one year or such extended period as may be notified under section 8 from the appointed day, no claim arising out of any proceedings which are stayed under sub-section (1) of section 5 or out of any decree described in sub-section (1) of that section in respect of which no execution proceedings have been taken shall ever exceed the amount of the principal by more than one hundred fifty percent of such amount.

Restriction on amount of claim and interest in certain cases.

(2) No interest shall accrue on any amount included in any claim referred to in sub-section (1) during the period this Chapter is in operation.

13. Any person who after the appointed day, recovers any debt or part thereof including interest thereon from a debtor or a small farmer in contravention of the provisions of Section 3(a) or Section 5(1) as the case may be shall be punishable with imprisonment which may extend to 3 years or fine which may extend to 2,000 (two thousand) rupees or with both.

Penalties.

CHAPTER IV

EXEMPTIONS

Savings.

14. Subject to the provisions of section 9, nothing in this Ordinance shall affect the debts and other liabilities of any debtor or small farmer falling under any of the following matters, namely:—

- (a) any rent due in respect of any property let out to such debtor;
- (b) any liability arising out of breach of trust or any tortious liability;
- (c) any liability in respect of wages or remuneration due as salary or otherwise for services rendered;
- (d) any liability in respect of maintenance, whether under a decree of court or otherwise;
- (e) any debt due to:—
 - (i) the Central Government or State Government;
 - (ii) any local authority;
 - (iii) a bank as defined in the Himachal Pradesh Agricultural Credit Operations and Miscellaneous provision (Bank) Act, 1972;
 - (iv) a body corporate established under any law for the time being in force;
 - (v) any co-operative society, registered or deemed to be registered under the Provision of the Himachal Pradesh Co-operative Societies Act, 1968;
- (f) any Government Company within the meaning of the Companies Act, 1956;
- (g) any sum due to Government; and
- (h) any amount recoverable as arrears of land revenue.

7 of 1973

3 of 1969

1 of 1956

S. CHAKRAVARTI,
Governor.

SIMLA:
the 12th November, 1975.

T. R. HANDA,
Secretary (Law).

Simla-2, the 13th November, 1975

No. LLR-D(6) 19/75.—The Himachal Pradesh Urban Rent Control (Amendment) Ordinance, 1975 (Ordinance No. 6 of 1975) promulgated by the Governor, Himachal Pradesh, under clause (1) of Article 213 of the Constitution of India on the 12th November, 1975, is hereby published in the Rajpatra, Himachal Pradesh, for the information of general public.

M. C. PADAM,
Under Secretary (Judicial).

Ordinance 6 of 1975.

THE HIMACHAL PRADESH URBAN RENT CONTROL (AMENDMENT) ORDINANCE, 1975

Promulgated by the Governor of Himachal Pradesh in the Twenty-sixth Year of the Republic of India.

An Ordinance further to amend the Himachal Pradesh Urban Rent Control Act, 1971 (Act No. 23 of 1971).

Whereas the Legislative Assembly of Himachal Pradesh is not in session and the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, the Governor of Himachal Pradesh is pleased to make and promulgate the following Ordinance:—

1. (1) This Ordinance may be called the Himachal Pradesh Urban Rent Control (Amendment) Ordinance, 1975.

Short title and commencement.

(2) It shall come into force at once.

2. After section 23 of the Himachal Pradesh Urban Rent Control Act, 1971 (Act No. 23 of 1971) the following new sections 23-A and 23-B, alongwith their headings shall be inserted, namely:—

Inversion of sections 23-A and 23-B.

“23-A. Power of the controller to transfer proceedings from one controller to another controller.—(1) Where there are two or more controllers appointed at the same station to exercise jurisdiction under this Act in the same territory, it shall be the senior most (in service) of such controllers who alone shall be competent to initially entertain all applications and proceedings under this Act.

(2) The controller competent to entertain applications and proceedings under this Act under sub-section (1) may transfer any such proceedings or applications pending before him for disposal to any other controller of competent jurisdiction.

23-B. Power of the High Court or appellate authority to transfer proceedings from one appellate authority or controller to another.—(1) The High Court may on an application made to it or otherwise, by order, transfer any proceeding pending before any appellate authority to another appellate authority and the appellate authority to whom the proceedings so transferred, may subject to any special directions in the order of transfer, dispose of the proceedings.

(2) The High Court or appellate authority may on an application made to it or otherwise, by order, transfer any proceeding pending

before any controller to another controller within its jurisdiction and the controller to whom the proceeding is transferred may, subject to any special direction in the order of transfer, dispose of the proceedings."

SIMLA:
the 12th November, 1975.

S. CHAKRAVARTI,
Governor.

T. R. HANDA,
Secretary (Law).